

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JOHN DAVID KUEHNE, JR.,

Petitioner,

-v-

UNITED STATES OF AMERICA,

Respondent.

Case No. 3:03-cr-063

also Civil Case No. 3:10-cv-379

Judge Thomas M. Rose

Magistrate Judge Sharon L. Ovington

**ENTRY AND ORDER VACATING THIS COURT’S PREVIOUS ORDER
ADOPTING THE MAGISTRATE JUDGE’S REPORT AND
RECOMMENDATIONS WITHOUT OBJECTION (Doc. #379);
OVERRULING KUEHNE’S OBJECTIONS (Doc. #380) TO THE
MAGISTRATE JUDGE’S REPORT AND RECOMMENDATIONS;
ADOPTING THE MAGISTRATE JUDGE’S REPORT AND
RECOMMENDATIONS (Doc. #378) IN ITS ENTIRETY; AND DENYING
KUEHNE’S MOTION FOR LEAVE TO FILE SUPPLEMENTAL RULE
59(e) MOTION (Doc. #372), HIS MOTION FOR LEAVE TO FILE
SUPPLEMENTAL TO RULE 59 (e) MOTION (Doc. #375) AND HIS
MOTIONS TO CORRECT CLERICAL MISTAKE (Docs. #373 and 376)**

Pro se Petitioner John David Kuehne, Jr. (“Kuehne”) has filed a Motion for Leave To File Supplemental Rule 59(e) Motion (doc. #372), a Motion for Leave To File Supplemental To Rule 59(e) Motion (doc. #375) and two Motions To Correct Clerical Mistake (docs. #373 and 376). Magistrate Judge Ovington has filed a Report and Recommendations recommending that Kuehne’s pending Motions be denied as meritless and moot. (Doc. #378.) Objections to Magistrate Ovington’s Report and Recommendations were due by May 17, 2012. Seeing no objections, this Court adopted Magistrate Ovington’s Report and Recommendations on May 24, 2012.

On May 25, 2012, Kuehne’s Objections were filed. (Doc. #380.) Therein, Kuehne avers

that his Objections were placed in the internal mailing system on May 15, 2012. Therefore, with deference to the “prison mailbox rule,” this Court’s previous adoption of Magistrate Judge Ovington’s Report and Recommendations is vacated and Kuehne’s Objections will be considered as if timely filed.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Kuehne’s Objections to the Magistrate Judge’s Report and Recommendations are not well-taken, and they are hereby OVERRULED. The Magistrate Judge’s Report and Recommendations is adopted in its entirety.

Kuehne’s Motion for Leave To File Supplemental Rule 59(e) Motion (doc. #372), his Motion for Leave To File Supplemental To Rule 29(e) Motion (doc. #375) and his two Motions To Correct Clerical Mistake (docs. #373 and 376) are denied as meritless and moot. Finally, the captioned cause is once again ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

DONE and ORDERED in Dayton, Ohio, this Thirty-First Day of May, 2012.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
John David Kuehne, Jr. at his last address of record